

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**MAY 8, 2023**

Those present at 7:00 p.m.:

Presiding:	Mayor Stu Markham District 1, John Suchanec District 2, Corinth Ford District 3, Jay Bancroft District 4, Dwendolyn Creecy District 5, Jason Lawhorn Deputy Mayor, District 6, Travis McDermott
Staff Members:	City Manager Tom Coleman City Secretary Tara Schiano City Solicitor Paul Bilodeau Chief of Community Engagement Officer Jayme Gravell Chief Procurement and Projects Manager Jeff Martindale Electric Director Bhadresh Patel Finance Director David Del Grande Public Works and Water Resources Director Tim Filasky Public Works and Water Resources Deputy Director Ethan Robinson Parks and Recreation Director Joe Spadafino Parking Supervisor Courtney Mulvanity Administrative Professional I Jordan Herring

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1. Mr. Markham called the meeting to order at 7:00 p.m.

2. **SILENT MEDITATION & PLEDGE OF ALLEGIANCE**

Mr. Markham asked for a moment of silence and the Pledge of Allegiance.

Mr. Markham explained the procedures for the hybrid Microsoft Teams Meeting Platform. He stated that at the beginning of each item, he would call on the related staff member to present and, once the presentation was complete, he would call on each Councilmember to offer their comments. If a Councilmember had additional comments to add later, they should signal the Chair to be recognized again after all members had the opportunity to speak. If members of the public wanted to offer comment and were attending in person, they should sign the sign-in sheet near the entrance to the Council Chamber to be called on to speak at the appropriate time. Members of the public attending virtually should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak or message the meeting organizer through the chat function with name, address or district, and the agenda item on which they would like to comment. He stated that all lines would be muted until individuals were called to speak, at that point, the speakers' microphone would be enabled, and they would need to unmute themselves in order to comment. He emphasized that public comments were limited to five minutes per person and all speakers were required to identify themselves prior to speaking. Comments in Microsoft Teams chat would not be considered part of the public record for the meeting unless they were read into the record as part of the public comment. He asked that all attendees keep cameras off until called on to speak.

3. 1. **PUBLIC PRESENTATION: (15-minute limit):** None

Mr. Markham announced that there was an addition to the agenda.

MOTION BY MS. FORD, SECONDED BY MR. MCDERMOTT: TO ADD ITEM 6-B, A RESOLUTION ON BEHALF OF THE CITY OF NEWARK IN SUPPORT OF PROPOSED HB 127 AN ACT TO AMEND TITLE 9 AND TITLE 25 OF THE DELAWARE CODE RELATING TO COUNTY FIRE PROTECTION FEES.

MOTION PASSED. VOTE: 7 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

4. 2. **ITEMS NOT ON PUBLISHED AGENDA**

- A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

5. 2-B. **UNIVERSITY**

- (1) Administration (5 minutes per speaker) (10 minutes): None

6. 2-B-2. **STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes):** None

7. 2-C. **CITY MANAGER (10 minutes):**

**03:02**

Mr. Coleman informed that the Spring Concert series started this past Thursday (05/04/23) on Academy Street. Music started at 7 p.m. with a 6-9 p.m. beer garden. Hamilton's on Main was the restaurant partner and had music from 6-7 p.m. and then from 8-9 p.m., totaling music for three hours on Thursday nights. This would continue for four more weeks every Thursday.

Mr. Coleman also spoke on parking at the Newark Historical Society in Lot 8. Lot 8 consisted of the parking spaces directly underneath the S. College Avenue bridge and were pay-for-parking. The Newark Historical Society had worked out an agreement with the Parking Team where there would be no enforcement between 2-5 p.m., but that was never codified. He asked Council if continuing to allow free parking on Sunday from 2-5 p.m. when the Newark Historical Society was open would be something that Council would like for him to bring an ordinance forward to codify.

Mr. Markham asked how many parking spaces this included. Mr. Coleman responded that the number was not many, and he would provide it later. He estimated it was between 4-6 spaces and especially on Sundays there was very low revenue.

8. 2-D. **COUNCIL MEMBERS (5 minutes):**

**05:00**

**Ms. Creecy:**

- Mentioned the previous meeting's discussion of the traffic signal-to-4-way stop sign proposal between Apple Road and West Park Place and wished to bring clarity to the situation with support of the City Manager. She stated that this was a project as opposed to being set-in-stone and was a study that would be done over the course of twelve months. If there were any type of issue with what would be done in that study, it could be changed by Council. She wished to make sure that the public, her constituents, and Council were clearly informed on this matter.
- Agreed with Mr. Coleman's point regarding free parking between 2-5 p.m. on Sunday for Newark Historical Society patrons and encouraged him to move forward.
- Advised that while the Dickey Park gardens were well, some owners needed to de-weed their plots. While some believed they had lettuce, they were instead weeds, and the dirt needed to be turned over to plant seeds for the season.

Mr. Coleman interjected to notify that the Parking Team had notified the lot was not lined so it was hard to say exactly how many spaces it consisted of, but about 10-12 cars could fit without being blocked in or in the road itself. He also confirmed that Ms. Creecy was correct regarding the twelve-month study and would be reevaluated once there was data. He commented that 63% of the Dickey Park garden plots were College Park residents and there was a waiting list. Ms. Creecy mentioned she was taking care of it.

Mr. Markham asked Ms. Creecy if the information on parking changed any of her prior comments, to which she confirmed not.

**Ms. Ford:**

- Noted that her comments were mostly regarding 6-B, so she would reserve them for when that item was addressed.
- Agreed as well that she supported keeping the free parking at the Newark Historical Society on Sundays between 2-5 p.m., mentioning that she went along the James Hall Trail almost every Sunday and

noticed very few cars used those spaces anyway. She believed there was not a great loss of revenue so anything that helped the Historical Society had her approval.

**Mr. Suchanec:**

- Noted that the parking lot at the Newark Historical Society was not lined for multiple years and remembered several years ago being ticketed in that area, then his case being waived because of the lack of lining and an unlined parking situation was not able to be enforced. To prevent confusion, he suggested considering lining that area, and deemed the idea of keeping free parking between the hours of operation of the Historical Society was appropriate.

**Mr. Lawhorn:**

- Supported the free parking at the Newark Historical Society and asked if there was a reason that this lot was not lined and if something could be done. Mr. Coleman responded he was not sure offhand and Courtney Mulvanity, Parking Supervisor, believed that some of it was gravel. However, it could be investigated.

**Mr. McDermott:**

- Asked if there were regulations as to the private parking lots and their signage, as well as if the City regulated how they posted their parking requirements. Mr. Coleman responded there were in Code requirements for signage related to towing and fire lanes, however he would need to ask Parking beyond that. When he asked if Mr. McDermott had a specific question, he answered that he wished to be informed so he could respond. He mentioned a situation where a driver parked in a private lot and had an issue with an unfortunate scenario that took place and believed there was insufficient signage to let someone know there was not public parking in that lot. He knew there were questions as to how many spots were required to maintain by Code for their businesses, etc., so he did not have an answer and mentioned he could follow up to talk with the City Manager about it.
- Mentioned he was on Main Street this weekend and asked if there was a timetable on the marijuana discussion from before regarding the City's Code. Mr. Coleman hoped to add this to the May Planning Commission agenda, however it was not ready, so it would be on the June agenda instead. Mr. McDermott recalled that he witnessed two people on Main Street smoking marijuana in public and believed that if it went unchecked, that type of behavior would increase, so he wished to stay on top of that.
- Approved the Sunday free parking at the Newark Historical Society.

**Dr. Bancroft:**

- Approved of the Sunday free parking at the Newark Historical Society.
- Thanked the staff as he was aware of the influx of traffic during the busy season as the students were clearing out. He appreciated the City's efforts to manage this in advance.

**Mr. Markham:**

- Approved of the Sunday free parking at the Newark Historical Society.

**9. 2-E. PUBLIC COMMENT (5 minutes per speaker) (10 minutes): None**

**11:30**

Mark Morehead, District 1, approached Council to speak. Mr. Markham mentioned he was a District 1 Councilman for eight years.

Mr. Morehead clarified that he had not been paying much attention to what had been currently going on in the City since his time off Council, and generally believed things were going well. However, today he experienced a disturbing situation, and his belief was that it was a management issue which could be fixed by the people in the Council Chamber. He did not know exactly who could fix it or the outcome and was not asking for a response this evening.

He recalled that about 9:15-9:20 a.m. on this day, he was driving on West Main Street and noticed many people in the road by the water tower. He noted that when this is typically seen, one would assume it was an accident with cars stopped and citizens directing traffic in an immediate short-term situation. As he got closer, he noticed a man standing in the road and holding his hand up to stop traffic. He noticed about four people in the road wearing bright green jackets as well as City vehicles safely parked away in the golf course. He stopped as he got closer, noticing two men working on a valve on the road outside of the water tower, and assumed these were City employees. He observed that the man in front of him had an open bright green vest and if it were closed, it would be easier to see. He believed this was wrong, as the City's vehicles were protected but the employees were put at risk. He asked if this was a procedure or

if there was a procedure for protecting the staff. He mentioned that when he mowed his lawn and berm, he parked a vehicle with a trailer out in the street as drivers would dangerously speed through. This afternoon, he observed that there were four valves in that road, one being in the center in the travel lane, the second being in the travel lane, and the other two about six inches beyond the white lane. He did not believe this would protect anyone. He asked Council to figure out how this happened, if this was something the system allowed on a regular basis, and proposed that if so, that system needed to be fixed. He asked if this was something that had just occurred, if someone needed to be spoken to, and urged a better decision to be made as this was regarding the possibility of a life-altering accident that could be prevented. He reiterated that he cared about the wellbeing of the people instead of the trucks and urged the City to do better.

Mr. Markham explained that safety had always been a priority of Council as there had been previous on-the-job injuries, and the City tries to prevent them. He remarked that the Public Works Director was here and would surely take care of it.

Mr. Morehead asked if the policies and procedures could be investigated as those workers could have been uncomfortable wearing the vests in the warmer weather, but he believed there to be things wrong with the situation. One would assume that when a person was in the road with their hand held up, drivers would stop, but there was data of how many distracted driver accidents happened every day. He thanked the Council for their time in listening to him and hoped none of the City's employees got injured. The City had gone to great lengths to make sure that the employees in the building were safe and asked that the procedures were investigated to keep the employees in the field safe as well.

Mr. Markham believed that Mr. Morehead brought attention to an issue that was fixable and thanked him for his comments.

There was no further public comment.

**10. 3. APPROVAL OF CONSENT AGENDA: (1 minute)**

- A. Approval of Council Meeting Minutes – March 27, 2023
- B. Approval of Council Meeting Minutes – April 20, 2023
- C. Approval of Council Meeting Minutes – April 24, 2023
- D. 2023-2027 CIP Budget Amendment Q101 – Stormwater Quality Improvements

**19:13**

Mr. Markham explained that there was a typo in 3-C: an omission of a vote. The April 24, 2023 minutes should have had a 6-0 vote, which could be fixed by the City Secretary.

Ms. Schiano read the consent agenda into the record.

MOTION BY MS. CREECY, SECONDED BY MR. LAWHORN: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

**11. 4. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS: None**

**12. 5. ITEMS NOT FINISHED AT PREVIOUS MEETING: None**

**13. 6. SPECIAL DEPARTMENT REPORTS:**

- A. Request for Sewer Service Extension to an Out-Of-Town Property at 0 Paper Mill Road

**20:36**

Mr. Coleman explained that there was a property owner that had petitioned the City to extend City sewer to an out-of-town parcel, which previously was not allowed, but now was allowed under charter with approval of the City and the county. The property in question was 0 Paper Mill Road which had been to Council before for annexation and initial development, which was denied by Council at that

time. Since there had been a denied proposed development plan, Mr. Coleman brought this to Council to get feedback as opposed to staff approving or disapproving it unilaterally without Council input.

Kevin Mayhew, 103 Elmer Drive, stated that he was planning on building a house at 0 Paper Mill Road for he and his wife to move to. They would have to put in a septic system and well for that house to be built, and the opportunity came up to help neighbors in the area gain access to water and sewer also. Behind them, one property had a cesspool that was failing and would like to tie into a public sewer, and other neighbors on Mimosa Drive wanted to tie in a public sewer as well. He believed this would be an opportunity to provide that access as it was a very large investment, close to \$250K, to get water and sewer onto these properties. He asked for sewer access to be granted to this site.

The Mayor opened the table to Council comment.

Mr. McDermott informed that he sent this proposal to the residents, noting that if it were to enter the City, it would more than likely be in his district (District 6.) There was originally a development plan for that property; he asked what the development plans were going forward with it.

Mr. Mayhew expressed wanting to preserve 10 acres of that property. There was previous Council discussion, the State came out, and explored the possibility of getting that preserved for over a year. The appraisal came back very low and disappointing, as the offer presented did not fit financially, especially since water and sewer would need to be brought to the site as well as to help neighbors get off sewer. He mentioned that he would probably present a plan to Council in about 3-4 months with a seven-lot subdivision plan. Afterwards, if their fair market value came up and the State would like to engage again, they would be willing to do so with a new appraisal and aim to preserve that land; this was the endgame goal.

Mr. McDermott commented that he would like to see this as well, however it was a money issue from the government standpoint. He asked if the seven-lot subdivision planned to be brought forward would come with an annexation request and subdivision plan, to which Mr. Mayhew confirmed. He then asked how many houses would be able to fit on that property if it were to be developed in the county. Mr. Mayhew explained that the ballpark was possibly four because it was a wellhead protection area, and that doubled the requirements because of the Water Resource Protection Area (WRPA) classifications.

Mr. McDermott stated that a plan was brought forward for the property that was not approved by Council and there was concern that this would be piecemeal attempt to get a plan onto that property, to get those seven houses. Currently, those seven houses could not be built on that property unless it was part of the City, had sewer service, and this would be the first step in that development plan. He believed many to be concerned and did not want to see that land developed. While was an advocate for owners' rights, he did not want to see seven houses on that property. He hoped that any owner of that property realized that the land was more valuable within the City with seven houses than it would be in the county with four houses. Those were those concerns that were brought forward to which he agreed. While he would love to see a plan where that property would get preserved and purchased by a government entity, he did not believe this sewer line led them in that direction.

Mr. Mayhew commented that he and his wife were very anxious to begin constructing their house and wanted the permit within a month or two, if possible. If they did not get this approved, they would likely get septic and well and build their house, which would never lead to an investment on his end to bring in sewer and water to help his neighbors. It would put his back neighbor to fend for herself, which she could never run 1.5K feet to a sewer line. Two houses were feeding their wastewater into the White Clay Creek, 1K feet away from the City's intake line for the fresh intake water. He believed this was a considerable environmental benefit to bring water and sewer to that side of the street.

Mr. McDermott informed this property was not within the City and his obligation was to the City residents, so that was where his thought process needed to be focused. That property was not in the City, it was in the county, and if there was an environmental issue within the county, the county should be the one to be notified and handle it.

Ms. Creecy asked for Tim Filasky, Public Works and Water Resources Director, to share his thoughts.

Mr. Filasky explained that there were two septic systems which concerned them on the back of the property, and it would be ideal if that were to get into a sewer service. However, it was also within a wellhead protection area, and adding its own to the septic systems that were there would not be beneficial to the City at all. Removing from the wellhead protection area was a priority, but adding more

impervious land cover to the site also was not beneficial. They were torn on what direction was the best. There were two septic systems, and there was nothing set-in-stone that required Mr. Mayhew to do so, which would be another concern to get done. There would not be a contractual obligation on the owner's end to get that done.

Ms. Creecy asked for confirmation if sediments were being deposited into White Clay Creek.

Mr. Filasky explained that if a septic system was functioning properly, the solids would be taken out and then would go out to a drain field and perk into the ground. The area here was well-draining and was a wellhead so they did not want more of that going into the ground than currently.

Dr. Bancroft was concerned to hear of the problems that could be associated with the expansion of the City in this specific case.

Ms. Ford asked how much this process would cost the City. Mr. Markham clarified that this would be at Mr. Mayhew's expense and not at the City's. Ms. Creecy recalled that Mr. Mayhew previously stated an amount of \$250K.

Mr. Lawhorn commented that the amount of information led to this matter being rather complicated. He stated that he was on Council when the project was rejected and voted against it. For this project, he believed it would have to be broken down to analyze what would be done at each stage. What Council would vote on tonight was access for a sewer line; he believed what was most beneficial and important was protecting the City's water source. He thought the City was lucky as someone was looking to develop the property that had the means to spend \$250K on a sewer line. If it did not happen now, he predicted that it would never happen. To have this sewer line run out to prevent the developer himself from creating a new septic system and then to give a much cheaper line of access to two other homes to add sewer to their properties, he believed that was a huge benefit to the City if the potential damage to their water quality was considered. He knew that as far as future plans were concerned, there were things that could happen as opposed to what Council hoped to happen. There was a hope that this land was preserved and recalled that the previous time this topic was addressed, there was much discussion of trees. However, that was more external than when Council discussed it. He believed that the main reason why that project was rejected was the desire for homeowner's associated (HOA) and wished to maintain their own roads and sewer system. The conversation of Council was that no neighborhood would realistically be able to afford spending the millions of dollars it would take to maintain their sewer, plumbing, utilities, roadways, etc. years later. However, Mr. Lawhorn believed that in the future, whatever came would come regardless. If they received a proposal for a seven-lot plan, that should be addressed, and the negative potential plans should be discussed at that point in time.

Mr. Lawhorn wished to point out that he did not want Council to miss the opportunity to protect their water source by running this sewer line, including access to give other residents cheaper access to run sewer lines as well.

Mr. Suchanec asked Mr. Filasky to give more information on the auxiliary pump required for this process. He asked for clarification if it were functioning properly, everything would flow downhill.

Mr. Filasky confirmed this was correct, however with the way this lot was situated, there would be a small grinder pump for each home. It would essentially go from the road down to the creek which would need to be pumped back up into their system. This was how the City sewered lots on the outskirts of town such as on Valley Road and Queen Anne's Court. The City had a grinder pump with enough storage for two days that could then pump into the system. Mr. Suchanec asked whose responsibility this would be. Mr. Filasky responded that until it left their property, it would be the homeowner's responsibility to maintain the pump, the grinder, the storage unit, and the pipe going to the end of their property.

Mr. Suchanec mentioned that this was the first he heard of other people in that area that wanted to connect to the sewer system. He could see if they had septic systems, they could be candidates, however he did not believe anyone was committed to doing so. Mr. Filasky did not believe there was anything contractual between the owners. Mr. Suchanec asked if they decided that they wanted to make that transition, it would be their responsibility to pay for that infrastructure. Mr. Filasky stated they would have to get to wherever Mr. Mayhew's started. Mr. Suchanec asked if there was a possibility that they could not be in the financial position to do so, to which Mr. Filasky confirmed there was.

Mr. Suchanec then asked how reliable these were as his concern was that if they were to fail, he assumed it would be the City's responsibility to repair it as part of their system. Mr. Filasky denied so, as when it was in the pump, everything was private, and when a duplex was set up, the standards and

specifications were changed specifically for this. In a duplex set-up, if one failed there was always a back-up, and at least two days of storage was able to be held within a large enough wet well. Mr. Suchanec asked if this took away from the risk regarding if there was failure, meaning possible sewage could infiltrate the watershed. Mr. Filasky replied that all were set up on alarm systems, so when one pump would fail, the other would continue to run, and then there was time even if both failed to get that problem fixed as two days of storage would be held. Public Works would probably receive that call and would recommend that they call the plumber or contractor to make the necessary repairs.

Mr. Suchanec wondered if approved, this would be de facto making any comment about supporting the future development of that land beside the one house proposed. Mr. Filasky mentioned that this would be a legal question.

Paul Bilodeau, City Solicitor, responded this would not be a de facto decision. Currently, this would be the matter of the first property as well as possibly two other properties. This discussion would not be making any commitment to any future developments. Mr. Suchanec asked for clarification that Council could vote on any future development of that land. Mr. Bilodeau responded that if something came back, nobody would be prohibited from voting in a certain way. Mr. Suchanec commented regarding the developer preferring seven houses vs. four houses in the county, the City was not supporting seven houses on that property at this stage. All Council was deciding on was to make the sewage line available and it could potentially be available for more than the houses being considered for development. If other residents in that area wanted to connect, that would be a separate matter, to which Mr. Bilodeau agreed.

Mr. Markham recounted that he was on Council when they voted 7-0 regarding this property. He thought there were hundreds of septic systems north of this, so there was the discussion of taking two or three out of the system when quite a few were in Pennsylvania and up the line. He believed there was a bigger problem that Council would not address with putting in the sewer system. He was also concerned that as soon as Council agreed to the sewer system, there were more options in the county that the City would have no say in once it happened. He was not sure if he was willing to give that option. If he had a guarantee that there would be too happens, it would have to be solid, and he'd be more interested in providing this sewer line. The county would have to agree to it, as well.

The Mayor opened the floor to public comment.

Donald Sharpe, District 5, mentioned that there was history to this matter. He opposed this proposition, and wished to make it clear that it was not personal against Mr. Mayhew. He mentioned that he tried to get this for open space, and after the annexation was rejected, met with Representative Paul Baumbach, and asked if he would contact the trust to see if they wished to sell it to the park. There was no interest. Bill Cohen, former member of the Planning Department, called multiple times and the trust responded after a few conversations, he would be the first person contacted for decision. Instead, they contacted the developer. Mr. Sharpe commended Mr. Mayhew for wishing to sell part of the property for a park, but reminded Council that this was a resource area and the county implemented one house per five acres able to be built. There were eight available acres which did not qualify for two houses. In the meantime, he thought the State's appraisal was fair, and Mr. Mayhew's proposal was rather unrealistic at nearly \$300K. This was based on the property being zoned for houses, which Mr. Sharpe denied, as it was a resource area. He wished to see a renegotiation on the subject with a more reasonable appraisal and see what could be worked out with the State to buy most of the property. Then, if one house was to be built, he could go back to the City and request a sewer line. However, this would be on two conditions. The first, one acre or maybe two, the second acre would need to be even with Mr. Mayhew keeping the property, but no-one could build there again. Second, to get the State or the City, at first refusal, that acre would need to be sold. The City and State would also need to be given right of way between the creek and hill so the trail at Newark could be extended to White Clay Creek State Park, as there was another owner alongside with seventeen acres. This owner lived in Florida, and if acquired, this would be a direct link to White Clay Creek State Park. If this could be worked with, more property could go to the park. He reiterated it was nothing against Mr. Mayhew and hoped a solution could be found to make everyone happy. Mr. Markham asked for clarification if he was for or against the sewer line, to which Mr. Sharpe replied that he was against it.

Peggy Schultz, 113 East Main Street, lived in the area for 25 years. She was honored to speak after Mr. Sharpe and commended him for his work in terms of open space preservation. She opposed the sewer installation for two reasons. First, Council was not obligated to do this and were not in a position where they were badgered to decide. She was not sure why Council would want to do this, knowing that counties frequently provide sewers, services, and annexations for communities so they could build their coffers. The American Farmland Institute had done research over the years that showed it was much to a community's and government's advantage to maintain open space as opposed to getting income from

properties that were developed. She worked for a nonprofit, nonpartisan organization for many years and they had been especially active on the count level, and “sewer” was code for “development.” She believed this was a gate that could be opened, and it was never to a government’s advantage to provide services to these outlying regions as they did not turn out well on the ledger. The American Farmland Institute had done many research papers but at least one stated that for open space, for every dollar of taxes brought in, the community will have to provide about \$0.36 worth of services. However, when it was developed in outlying areas, they had to provide \$1.15 worth of services, meaning a loss of money. She confirmed once more that she opposed the sewer development and hoped that Council would vote against it.

James Creque, 13 Madison Drive, was at the hearings when this project was discussed before, and there were many good reasons given to why it was rejected. Among them, the maintenance cost would be very high, and it would become a financial burden on the City, far more than any other tax that the City could receive. He agreed with all reasons why this was rejected initially. He hoped that this project was not approved, and to him it appeared that one person whose proposal was rejected sold off the property to see if the new owner would be able to get the project approved.

Mr. Markham announced that there were a few letters received.

Ms. Schiano began to read them into the record.

Al Schweizer, 411 Paper Mill Road & 8-9 Mimosa Drive, stated that 411 had a 60-year-old drilled well and a pressurized bad septic system. 8 had a modern septic system and 10-year-old drilled well that had to be taken out of service due to untreatable iron content. 9 had a shallow well and a cesspool. He stated that utilities were incredibly expensive to engineer and install and supported Mr. Mayhew’s valued engineering to cut contained costs. In addition to their properties, there were another twelve potential owners on both roads that may have interest if available. These utilities also helped preserve the White Clay watershed.

Jan Owens, 113 Emery Court, was opposed to adding the sewer line.

Cindy Green, 620 New London Road, thanked Council for heeding the many voices of their constituents in the past and not annexing the property into the City, thereby helping to ensure protection of the valuable natural resource. She stated that while the owner was asking for the City to provide water services, the City was under no obligation to supply a sewer line. If the sewer line was provided, the landowner could build several more houses than the two houses currently allowed by New Castle County. She asked for Council to deny the request for sewer service to the property. Increased development of this property that would be allowable with sewer service could result in the removal of mature trees on the steep slopes and disturbance of the floodplain which could have serious adverse effects on the water quality of White Clay Creek and on all wildlife that depend on the area for habitat. This property was an important natural resource in an area that adjoined White Clay Creek State Park and mature woodland and floodplain on the property and provide critical wildlife habitat and benefits to water quality. The land provides groundwater recharge and filtering of overland water flow which applies to White Clay Creek. She believed every effort should be made to ensure protection of this valuable natural resource area.

Peter Brackage, 43 Smith Mill Road, asked that Council did not approve the request to give the community a chance to benefit by adding this unique parcel to the area surrounding it at a fair price or at least mitigate the impact of developing it.

Mary Clare Matsumoto, 205 LaSalle Way, opposed the City providing sewer services to one house on Paper Mill Road as she thought it would be a future financial burden on the City. She was also concerned that putting in a sewer line would potentially add additional homes to the sensitive wooded area.

There was no further public comment, and the Mayor returned the discussion to the table.

Mr. Markham asked Mr. Coleman for clarification if there was no request for water, just for sewer. Mr. Coleman confirmed that the request was for sewer only, as water could already be extended. Mr. Markham asked as well if it was not an annexation request, to which Mr. Coleman confirmed as well.

Mr. Suchanec commented that he was also going to ask if there was water involved in this request. Mr. Coleman responded that the City’s water was equally challenging to get to the site, as the water system had different pressure zones based on elevation and this property was at the top of the downtown pressure zone. The neighborhoods built at the same elevation could not legally be built at this time in that pressure zone, so water would have to be brought down from a higher-pressure zone. However, that was



mainly an engineering problem. Mr. Coleman confirmed to Mr. Suchanec that sewer was the only topic for discussion today, as water did not require any special approval.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL DIRECT THE CITY MANAGER TO ALLOW EXTENSION OF CITY SERVICE TO THE PROPERTY AT 0 PAPER MILL ROAD.

MOTION FAILED. VOTE: 2 to 5.

Aye – Lawhorn, Creecy

Nay – Bancroft, Ford, Suchanec, Markham, McDermott.

Absent – 0.

**14. 6-B. A RESOLUTION ON BEHALF OF THE CITY OF NEWARK IN SUPPORT OF PROPOSED HB 127 AN ACT TO AMEND TITLE 9 AND TITLE 25 OF THE DELAWARE CODE RELATING TO COUNTY FIRE PROTECTION FEES**

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**58:33**

Mr. Coleman explained that staff were directed to bring this resolution to Council in support of the bill that would allow New Castle County to levy a tax specifically for fire service. Mr. Markham remarked that this was what Paul Baumbach had submitted to the state.

The Mayor opened the table to Council comment.

Ms. Ford shared that this came out of the ad hoc committee, working with Aetna, and was to enable legislation that will enable the county to do this. It was the first step towards getting the county to assume responsibility for sustainable funding for the City's fire service. She hoped everyone would approve it. Mr. Markham commented that one of Council's priorities was to help Aetna.

The Mayor opened the floor to public comment.

Representative Paul Baumbach thanked the Mayor and Ms. Ford for their commitment by Council to do all that could be done in Newark for the Aetna Fire Company. He appreciated the Council's consideration of noting support for this piece of legislation, which was not only for Newark, but also for the entire state. It honored the important role of local control, empowering each county individually, to decide if they wished to pass an ordinance to authorize a local fire protection fee for both fire and ambulance services by volunteer or nonprofit organizations. This bill was passed out of committee unanimously, was on the House ready list, and Mr. Baumbach was working hard to have it advanced to the next step. He believed that this action that Council was considering, if successful, would help his own endeavors. He appreciated Council's consideration and was hopeful that Council would vote to approve.

Mr. Markham stated that he believed they should do what they could to support others, as they would support in turn when needed as well.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE PROPOSAL TO SUPPORT HB 127 AS STATED IN THE MEMO FROM THE CITY MANAGER.

MOTION PASSED. VOTE: 7 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

Mr. Lawhorn asked how this would impact service credit if implemented. Mr. Coleman believed that this would theoretically be separate and would apply to the whole county, as there was a general service and a local service function. Mr. Markham explained this was enabling legislation and there were many details to be worked out on how it would apply, how it was charged, who it would get charged to and when.

**(RESOLUTION NO. 23-G)**

**15. 7. FINANCIAL STATEMENT:** None

**16. 8. RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:**

**A. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of a Vacuum Excavator (Soft Dig) Machine (CIP WEQSF) based on the Competitively Solicited Purchase Contracts in Association with Sourcwell for 2023 CIP WEQSF – Public Works and Water Resource Director – (10 minutes)**

**01:03:05**

Tim Filasky, Public Works and Water Resource Director, requested a recommendation for a waive bid to purchase a vacuum excavator. The purpose of this equipment was to use vacuum to suck dirt out from the excavation location. The current machine was ten years old, and the crew was initially very reluctant to use this piece of equipment. After about three or four times using the machine, he was hard pressed to keep it out of the field as the crew used it on almost every occasion. Essentially, if there was a tight spot or spot in which digging was undesirable, the machine was used to pinpoint the exact digging location, and either with water or on a damp surface the vacuum could be used to suck the dirt out, creating a much smaller restoration. The best use of this equipment was around other utilities. Everywhere that the crew dug was around gas, electric, fiber lines, etc. and they wanted to avoid hitting any of those obstacles. Although the utilities were normally marked, if they were off by a few inches, putting an 18-inch bucket in the ground did not leave much room for air. This machine was able to safely dig around those utilities, especially in a case where they knew the utility was and there was no other way to get to the utility aside from hand-digging.

Mr. Filasky explained that the big upgrade for this piece of equipment in comparison to the current equipment used was a mechanical arm – he explained that currently, the equipment required putting the pipe over an employee's shoulder and they would move up and down to control the suction. The new equipment included a four-way arm that could be controlled to move up and down by itself, which would reduce back injuries and fatigue when being used in a large excavation. He clarified that Public Works was \$30K under budget.

The Mayor opened the table to Council comment.

Ms. Creecy asked for him to repeat the former sentence, to which he did so.

Mr. Suchanec asked if this was a replacement piece of equipment and Mr. Filasky confirmed this was correct. Mr. Suchanec then pointed out that much of the land in Newark had nicer dirt to a certain level before turning into clay. He asked if this equipment was efficient with that specific kind of soil. Mr. Filasky explained that this equipment was very powerful and that there were two ways to make the equipment work: if the soil was more of a soup liquid, the equipment could simply suck it up, and if the soil was more of a hard solid, it possessed a wand similar to a high-pressure power washer that could eat away at the dirt to suck it out. If the dirt was extremely dry, it could be dug out with a digging bar and then could be sucked out.

Ms. Creecy asked if the warranty ran out in three years. Mr. Filasky confirmed that the premium warranty ran out at that time and Public Works did not get an extended warranty. Ms. Creecy asked what if something were to happen to the equipment outside of that time. Mr. Filasky affirmed that fleet maintenance mechanics would take care of the issue and make sure that it possessed the preventative maintenance. However, he did not believe a longer warranty was available for this equipment. Mr. Coleman commented that the previous equipment lasted for 11-12 years with regular use.

Mr. Markham wished all contractors would use something like this equipment and were as careful as they were, and he had stories from his nephew about incorrect and improper markings. One story involved his nephew hitting something, and when he double checked to make sure nothing of importance was there, staff affirmed he could take it out. This ended up being a large fiber optic which warranted response to ask what he was doing, while this fiber optic was not marked properly. He reiterated that something like this was very important.

Mr. Filasky agreed and Public Works' biggest concern was always electricity and gas. Whenever either was nearby, that was when this machine was used, as the last thing desired was to rip such a surface out.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

**MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF ONE**

VACUUM EXCAVATOR (SOFT DIG) MACHINE FROM THE SOURCEWELL COMPETITIVELY BID CONTRACT AS OUTLINED IN THE STAFF MEMO FROM VERMER ALL ROADS FOR \$116,914.00

MOTION PASSED. VOTE: 7 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

**17. 8-B. RECOMMENDATION TO AWARD CONTRACT 23-03 GRASS CUTTING SERVICES FOR 2023-2026**

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**01:09:31**

Joe Spadafino, Parks and Recreation Director, explained that the contract in question provided services for all mowing, trimming, and cleanup tasks at approximately thirty stormwater basins, swales, and bioretention sites and thirty water/wastewater facilities at the reservoir slopes. The contract covered a period of three years beginning in 2023 and the bid price shown was for the annual cost. Deerfield Mowing, the contractor since 2017, was the low bidder at \$44,776. Mr. Spadafino remarked they were very reliable and had done satisfactory work throughout their time working with Parks and Recreation. The funding to cover the cost associated with these services in 2023 was covered in the 2023 operating budget for the Parks and Recreation and Public Works and Water Resources departments. He went on to explain that on Council approval this figure would be awarded for 2024 and 2025 as well for the full three-year contract term.

The Mayor opened the table to Council comment.

Ms. Creecy asked if Deerfield Mowing was cutting the whole of the City's grass. Mr. Spadafino clarified that this contractor was only cutting the stormwater and bioretention basins, not the grass of the actual parks. When Ms. Creecy asked if they would be extending their service to the parks, Mr. Spadafino denied so; this would be for the reservoir amongst other necessary areas. He explained that certain areas were cut once a week, some were cut quarterly, and others were cut three times a year, so this would be for other areas. He gave the example that the slopes at the reservoir were too steep for any City mowers, so the contractor would cut those. Another example was that the stormwater basins were in multiple areas on slopes that would be better to contract out with the amount of weeding and manpower the job would take. Parks and Recreation had been contracting out for around 30-35 years.

Mr. Coleman shared that this in actuality was a Public Works contract as it involved stormwater and water facilities, however as the Parks and Recreation Department typically handled anything related to mowing, they oversaw the contract.

Ms. Creecy asked who cut the grass for City parks. Mr. Spadafino responded that was the job of the park staff, and it was especially tough to keep up this time of year as a mower broke down and lost at least four days over the last four weeks due to rain. Ms. Creecy responded that she sent Mr. Spadafino two workers today.

Mr. Markham hoped it was not one of the new electric mowers that broke down – Mr. Spadafino clarified that it was not. Mr. Markham commented that Mr. Spadafino led the charge into the Electric field regarding the mowers and hoped they would start requiring their contractors to follow suit since they were included with the mowers as well. He wished to provide an idea for the future, how that could be eased into so the contractors could follow the City's lead.

Mr. Spadafino shared that there were concerns about how long the electric mowers would last throughout the day and if they would have to be charged halfway through. However, they were a great addition to the fleet, and they had enough energy to last the entire day. Mr. Markham clarified that his request was to start considering this regarding mowing contracts outside of the City. While some could say the equipment would not work in areas such as the reservoir, he was sure there were other areas like the basins where the electric mowers would work just fine.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL AWARD CONTRACT NO. 23-03 (GRASS CUTTING SERVICES FOR 2023 – 2026) TO DEERFIELD MOWING AND PROPERTY MAINTENANCE, INC., UP TO THE BUDGETED AMOUNT OF \$44,778 PER YEAR FOR A FOUR-YEAR

TOTAL OF \$179,112. I FURTHER MOVE THAT COUNCIL AUTHORIZE STAFF TO ENTER INTO CONTRACT EXTENSIONS FOR THE 2026, 2027, AND 2028 MOWING SEASONS WITH DEERFIELD MOWING AND PROPERTY MAINTENANCE, INC. IF STAFF DEEMS THE SERVICE AND PRICING ACCEPTABLE.

MOTION PASSED. VOTE: 7 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

**18. 8-C. RECOMMENDATION TO WAIVE BID REQUIREMENTS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK AND TO PURCHASE ONE (1) POWER TRANSFORMER FROM VIRGINIA TRANSFORMER CORPORATION AND BUDGET AMENDMENT**

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**01:14:57**

Bhadresh Patel, Electric Director, informed that on July 2, 2022, there was a fault on Transformer Unit 76 at the West Main Street Substation. The fault was severe to the point of internal damage, and an outside company arrived to conduct the testing to make sure that the transformer could be rewound. The insurance company sent out an engineering consultant to evaluate the transformer as well and based on their recommendation, the transformer needed to either be replaced or rewound. Looking at the age of the transformer, staff recommended purchasing a new transformer since the current was almost 30 years old and had been rewound twice before. The insurance company requested the Electric Department to get a rewind quote to get the value on how much the cost would be; they ran out of the bid for the rewind quote and were unsuccessful. They did not receive any bidding for the rewind.

Mr. Patel went on to explain that at this point, they contacted Virginia Transformer, who they purchased transformers from in the past, and had no issue with the transformer. They informed Virginia Transformer of their needs and explained that this transformer had a high-side breaker compartment and low-side breaker compartment, with 12 kV feeders coming out. If the entire unit were to be purchased, it would cost approximately \$2M. Mr. Patel informed that he was working with Virginia Transformer to see if they could custom build a transformer that would fit between these two compartments, and they were able to come up with a design that would help to replace the transformer and not the breakers or anything else. That was the main reason why he wished to waive the bid process and work with Virginia Transformer due to their past positive experience, and when they previously went through the bid processes, there were always low bidders. At the same time, Virginia Transformer was able to custom bid the transformer as well. If they were to go out for another contract, another month would be lost, and it wasn't known whether the price would fluctuate. The longer the wait, the more the transformer price would increase.

Mr. Patel shared that this morning, the Electric Department received information from the insurance company that they accepted the department's claim for this transformer and would cover \$814,550. Only an additional \$200K would be needed to cover the cost.

The Mayor opened the table to Council comment.

Mr. Lawhorn asked for clarification that the insurance company would cover most of the cost and the rest would be from the City's Rate Stabilization Reserves (RSR). Mr. Patel confirmed so. Mr. Lawhorn went on to recall that there was a sentence stating that any money not used will go to the City's Electric reserves and asked if that was what fed the rate stabilization, to which Mr. Coleman responded yes.

Ms. Creecy asked if the transformer contributed to the recent outage a week ago. Mr. Patel denied so, as the transformer had been out of service since its initial failure on July 2, 2022. Ms. Creecy asked if this would help the situation if a similar incident occurred. Mr. Patel stated that it would indeed help.

Mr. McDermott was confused about the rate stabilization reserve. He asked what else these funds were used for. Mr. Coleman explained that it was not currently used as often as it was previously; before the City had the Rate Stabilization Adjustment (RSA), the rates needed to be adjusted more often. If the wholesale market went up, it would take time to adjust the rates effectively, so the shock absorber absorbed that. Now, the RSR was used this past year to absorb some of the rate change from the Indian River Change and then it was recovered back. Mr. McDermott asked how this was funded. Mr. Coleman answered that it was money over-collected and set aside as opposed to returning through the RSA. Mr. McDermott commented that he received multiple messages from people in his district about the recent outage, and Ms. Creecy echoed that she had as well.

Mr. Markham provided background on the RSA – the City had to set electric rates by ordinance. Many years ago, the rates spiked rather quickly, so the City could not respond that fast as the ordinance had to be publicized, they would have to wait two weeks, and then there needed to be second readings. The RSA allowed a much faster response. He commented that the Delaware Municipal Electric Corporation (DEMEC) was purchasing out further, so the prices were more stable. Many things had changed over the years. He explained the way that money got into the reserve was that when there was an over-collection, staff would bring a recommendation and Council would vote to use some of that money to fund that account.

Mr. Markham asked if this was a non-standard physical size which was why the transformer needed to be custom made. Mr. Patel confirmed that this was correct. Mr. Markham asked if it would be worthwhile to change the configuration so the next time a transformer had to be purchased it could be of standard size. Mr. Patel responded that while they had previously considered that option to see if this could be done, there was not much space at West Main Substation to change the configuration as this was a two-unit system.

Mr. Markham stated that he read this would take 65 weeks and wanted clarification that it would be over a year before this project was seen. Mr. Patel answered that there were a few options with Virginia Transformer as they had a plant in Mexico as well. If the time was less, they would build the transformer in Mexico and send it to Newark as fast as possible. Mr. Markham asked if there was a backup plan, assuming that the backup was currently running or the transformer itself was the backup. Mr. Patel responded there was a backup feeder, and they were constantly monitoring the load on the circuits and hoped the summer would not be too hot for it. Mr. Coleman added this was another reason why they did not want to delay going out to a request for proposal (RFP) to get a designed build unit done further as that would take months.

Mr. Markham asked if this was the western part of Newark. Mr. Patel explained that one feeder fed the western part of Newark while the other fed the center campus. Mr. Markham asked if there was something in place to allow the City to notify the residents and ask them to cut back usage if they were pushing it, and he did not want blackouts or anything of the sort. Mr. Patel responded they did have the option to a response program. Mr. Markham remarked he was recalling DEMEC's response in December, and Mr. Patel mentioned that option could be looked at if the time came.

Mr. Coleman informed they did have the Energy Savers Program that was exercised City-wide a few times throughout the summer, asking for voluntary conservation on what would be the five coincident peak days. They tried to get as many days to make sure those five coincident peaks were met as it drove down the wholesale capacity cost. Mr. Markham pointed out that this situation was different because it was a matter of equipment limitation. Mr. Coleman mentioned they could do a reverse 911 call if the situation looked bleak. Mr. Patel mentioned another option to consider was to see if they could rent a transformer in the meantime and that they were currently looking for vendors who could provide so.

Mr. Markham asked if this was going to an accredited disposal location, to which he confirmed. Mr. Markham explained that before Mr. Patel's time, they were going to a place that was not doing it properly, which meant anyone who sent the equipment there was included in the lawsuit, therefore involving the City in the lawsuit.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE A BUDGET AMENDMENT BY MOVING \$200,000 FROM CITY'S ELECTRIC RATE STABILIZATION RESERVE TO CAPITAL PROJECT E2306 AND WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF A NEW TRANSFORMER FROM VIRGINIA TRANSFORMER CORPORATION OF ROANOKE, VIRGINIA.

MOTION PASSED. VOTE: 7 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

**19. 9. ORDINANCES FOR SECOND READING & PUBLIC HEARING: None**

20. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT: None

21. Meeting adjourned at 8:26 p.m.

Tara Schiano  
Director of Legislative Services  
City Secretary

/jh